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sentence in that note appears inconsistent with the later part; and the leading authority cited in the note (*Yorkshire Banking Co. v. Beatson* [1880] 5 C. P. D. 109, 49 L. J. C. P. 380) is directly opposed to the statement in the earlier part of the sentence.

Notwithstanding the defects which we have noted—defects due to the limitations put upon the author, we believe, rather than to the author himself—the book is a most useful compilation of existing authorities and contains full citations of late judicial decisions. The author is quite at home with his subject; and, we are convinced, if he had been given a free hand as well as full opportunity in the production of this book, it would have been altogether admirable.

F. M. B.

THE LAW OF THE AIR. By HAROLD D. HAZELTINE, LL.D., Fellow and Law Lecturer of Emmanuel College, &c. London: UNIVERSITY OF LONDON PRESS. 1911. pp. 152.

This book is a careful study of a subject of daily increasing importance.

The author discusses at length the various theories as to the dominion of the air space above the earth, sharply and properly distinguishing air-space from air (p. 11). The futility of M. Fauchille's position that there is a certain space, above which the circulation of air ships is of right free, he deems to be plain from the very admissions of its originator. (p. 21). Ten years ago, when it was first taken, M. Fauchille thought the mean height of this space should be fifteen hundred metres. This was partly to prevent its use for surreptitious photography. Now he finds that the photographic art has been advanced so far that views can be taken at a greater height, and on the other hand that the art of aerial locomotion has been so advanced as to show that the natural level of voyages by dirigible air-ships of every kind is within about five hundred metres above the earth.

The "cannon-shot" limit Mr. Hazeltine rejects, as Krupp guns are said to have a vertical range of eleven thousand five hundred metres. He stands for the doctrine of full political dominion of all air spaces by the subjacent State (p. 29), except so far as international conventions may modify the rule (pp. 31, 143). This is in line with the provisions of the Berlin International Convention of 1906 as to wireless telegraphy, and of that at Paris in 1911, on the Regulation of Aerial Navigation (p. 131). He points out the new complications which would arise in international law if every country had not only lateral frontiers, but upper horizontal or vertical frontiers (p. 133).

In considering the rights of private landowners, under English law, Mr. Hazeltine observes that (p. 58) the theory of a limited ownership of air space is strengthened by the admitted English doctrine that one man may own an upper stratum of certain land, and another a lower stratum, whereas in Roman law no such horizontal division of *dominium* was permitted, and therefore civilians may naturally contend for the rule of "*Cujus est solum, ejus est usque ad coelum.*" It may be doubted whether his statement as to the Roman law of landed proprietors is true, except possibly in a very technical sense. Praedial, superficial servitudes in Roman law often gave a real dominion over the servient tenement, shown in the erection and use of permanent structures. Thus one man might own a house and another

a right to thrust beams into the former's wall and build a covered gallery upon them, with columns on one side erected on that wall. (*Digest, VIII, 5, Si servitus vindicetur, 6, 1.*) The urban servitude *projiciendi*, also, was nothing but the right to build over your neighbor's land.

Nor is the rule of "*Cujus est solum, etc.*", to be found in Roman law at all, except under great limitations. Thus if a man could lawfully build higher than his neighbors, ("*in infinito,*") he could not build so high as to cause them unreasonable inconvenience. *Digest, VIII, 2, de Servitutibus, etc., 24.*

Mr. Hazeltine discusses the English law largely from the standpoint of pleading at common law. Would trespass *quare clausum fregit*, he asks, lie against an air-ship sailing over my house, or an action on the case, or no action at all? In *Clifton v. Bury*, 4 Times L. R. 8, it was held that trespass could not be maintained for discharging a bullet over the plaintiff's land (pp. 63-83).

He gives his adhesion to the rule, (made law in Connecticut in June, 1911,<sup>1</sup>) that an aéronaut is liable absolutely for any injury to person or property done by his air-ship, although he may have used all possible care in navigating it (p. 84).

Mr. Hazeltine is in error in supposing that a draft bill for an Act of Congress to regulate foreign and inter-state commerce has been prepared by the American Bar Association. One was submitted for consideration by one of its members, but the Committee on Jurisprudence and Law Reform reported upon it adversely, mainly on the ground that such legislation was at present premature.

The principal regulations are given which were recently adopted for the German Empire (p. 128). Aéronauts must be licensed by the German Airship League. This is the practical equivalent of the Connecticut statute by which the Secretary of the State grants them on examination by himself or others to his satisfaction, or, without examination, to any one "holding a license from any association of individuals or societies formed for the purpose of promoting the science of aéronautics or aviation, if the standing and character of such association is such that the secretary is satisfied that such license has been issued after due examination and deliberation."

Mr. Hazeltine has produced a readable book, well considered and clearly expressed.

S. E. B.

#### BOOKS RECEIVED:

FEDERAL CORPORATION TAX LAW. By THOMAS GOLD FROST, LL.D., Ph.D. Albany, N. Y.: MATTHEW BENDER & Co. 1911. pp. xvii, 321.

THE LAW OF CONTRACTS. By CLARENCE D. ASHLEY, Professor of Law in New York University. Boston: LITTLE, BROWN & Co. 1911. pp. xxvii, 310.

MUNICIPAL BONDS HELD VOID. By MAURICE B. DEAN. New York: Published by the Author. 1911. pp. 122.

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<sup>1</sup>Public Acts of Conn. 1911, 1348, Sec. 5.